The Governor approved this Statement of Scope on September 16, 2015.

STATEMENT OF SCOPE

DEPARTMENT OF HEALTH SERVICES

Rule No.: DHS 118

Relating to: Trauma care

Rule Type: Permanent

Type of Statement of Scope: Original

1. Finding/nature of emergency (Emergency Rule only):

Not Applicable.

2. Detailed description of the objective of the proposed rule:

The objective of this rulemaking is to update the criteria for classifying Levels III and IV trauma centers.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter DHS 118 provides for the development and implementation of a statewide trauma care system which includes criteria for classifying hospitals' trauma care capabilities. The department is required under s. 256.25 (2), Stats., to base its classification criteria on the standards developed by the American College of Surgeons (ACS).

Chapter DHS 118 requires that a hospital seeking approval as a Level I or II trauma center to have verification at that level by the ACS. A hospital seeking approval as a Level III or IV trauma center may have verification at that level by ACS or must meet the ACS based classification criteria specified in ch. DHS 118. The classification criteria currently specified in ch. DHS 118 for Levels III and IV trauma centers is based on the 1999 edition of the ACS guidelines and criteria for review and verification of trauma care centers.

The ACS recently issued its 2014 guidelines and criteria for review and verification of trauma care centers. The department proposes to update its classification criteria to be consistent with the 2014 ACS guidelines and criteria.

There are no reasonable alternatives to the rulemaking. The department is required by statutes to base its classification criteria on ACS standards, and to specify the criteria in rule. To do nothing would result in Levels I and II hospitals developing and operating trauma programs under the most recent ACS criteria, while Level III and IV hospitals work under ACS 1999 criteria. Consequently, the hospitals in Wisconsin's trauma care system would develop or operate under different ACS standards.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 256.25 (1r) and (2), Stats., reads:
(1r) The department shall develop and implement a statewide trauma care system. The department shall seek the advice of the statewide trauma advisory council under s. 15.197 (25) in developing and implementing the system, and, as part of the system, shall develop regional trauma advisory councils.
(2) The department shall promulgate rules to develop and implement the system. The rules shall include a method by which to classify all hospitals as to their respective emergency care capabilities. The classification rule shall be based on standards developed by the American College of Surgeons. Within 180 days after promulgation of the classification rule, and every 3 years thereafter, each hospital shall certify to the department the classification level of trauma care services that is provided by the hospital, based on the rule. The department may require a hospital to document the basis for its certification. The department may not direct a hospital to establish a certain level of certification. Confidential injury data that is collected under this subsection shall be used for confidential review relating to performance improvements in the trauma care system, and may be used for no other purpose.

Section 227.11 (2) (a), Stats., reads: Rule-making authority is expressly conferred on an agency as follows:
(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:
1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that it will take approximately 500 hours to develop the proposed rule changes. Additional resources will include two statewide trauma committees: the State Trauma Advisory Council (STAC) and the Classification Review Committee (CRC).

6. List with description of all entities that may be affected by the proposed rule:

Emergency medical services providers and personnel, hospitals, and health care professionals.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There appears to be no existing or proposed federal regulation that addresses the activities to be regulated by the proposed rule.

8. Anticipated economic impact of implementing the rule:

The proposed rule is anticipated to have a moderate economic impact if promulgated.

Contact Person:
Rosie Greer
608-266-1279
rosie.greer@dhs.wisconsin.gov